OLC 74-0869

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

May 1, 1974

LEGISLATIVE REFERRAL MEMORANDUM

To: Legislative Liaison Officer

Department of Commerce
Department of Defense
Department of Interior
Department of Justice
Department of Transportation
Department of State
Fed. Energy Office
Department of Treasury
Agency for Intl. Devel.
Central Intelligency Agency
Council on Environmental Qua
Environmental Protection Ag.
Natl. Science Foundation
Natl. Security Council

Subject: NSC Interagency Task Force on the Law of the Sea and Commerce Dept. proposed testimony on S. 1988, "Interior Fisheries Zone Extension and Management Act of 1973."

The Office of Management and Budget would appreciate receiving the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

( ) To permit expeditious handling, it is requested that your reply be made within 30 days.

(XX) Special circumstances require priority treatment and accordingly your views are requested by

Noon on Thursday, May 2, 1974

Questions should be referred to John Fox (103-4580) or to George Gilbert (103-4710), the legislative analyst in this office.

Assistant Director for
Legislative Reference

Enclosures
mcb

DRAFT TESTIMONY

Mr. Chairman:

I am pleased to appear before this committee to present Executive Branch comments on S.1988, the "Interim Fisheries Zone Extension and Management Act of 1973." I am accompanied by

These persons, together with others, are members of the NSC Interagency Task Force on the Law of the Sea which, as you know, consists of representatives from the various agencies of the government with an interest in the Third United Nations Conference on the Law of the Sea. Mr. Pollock will supplement my testimony on behalf of the Task Force.

We are aware, Mr. Chairman,of the close personal attention which you and other members of your committee have given to possible solutions for US fisheries problems both in the context of the Law of the Sea Conference and in the interim before the Conference. We all share a common interest in effectively resolving the problems of our fisheries.

The Executive Branch, however, must oppose enactment of S.1988. In a letter to you on January 18, 1974 I set forth the reasons for our opposition to this bill. Those reasons are still valid.

Basically, we believe that the unilateral extension of jurisdiction required by this bill would entail serious foreign policy implications which could result in political

confrontations with close allies of the US and with the

Soviet Union during a time of detente, that it would seriously prejudice the achievement of a satisfactory resolution of the fisheries issue and other issues at the Third United Nations Conference on the Law of the Sea, that it is harmful to the long-term best interests of all United States fishermen, and that it is a violation of international law.

We fully recognize both that the United States coastal fishermen are facing severe economic problems and that overfishing has caused a depletion of some of our coastal and anadromous stocks. We are therefore sympathetic to the need for a solution to the very real problems which have prompted this bill. However, in view of the upcoming Law of the Sea Conference which will begin its substantive work in Caracas, Venezuela on June 20, these problems are only interim in nature. We expect the Conference to produce satisfactory solutions to these problems, and we believe that those solutions can only be achieved by multilateral agreement, not by unilateral action.

As you know, at preparatory sessions for the Law of the Sea Conference, the United States introduced a fisheries proposal designed to give coastal states extensive jurisdiction over coastal stocks to the limits of their range. Under our proposal the coastal state would have a preferential right to that portion of the allowable catch it could harvest. The remaining portion would be open to harvest by fishermen of other nations, subject to conservation measures by the coastal state

conservation measures and reasonable management fees.

Anadromous species would also be subject to extensive host state control to the limit of their migratory range. On the other hand, highly migratory stocks such as tuna would be managed by international organizations in which all fishing and interested coastal states could participate.

In the context of the Conference, a large majority of nations have supported broad coastal state controls over coastal fisheries. It is clear that the outcome of successful negotiations will almost certainly involve substantial enhancement of coastal state control over coastal stocks, and we strongly support this outcome. Moreover, we believe the Conference should also achieve a rational effective management system for highly migratory species, as well as host state management jurisdiction and preferential rights for anadromous species. However, a unilateral extension of fisheries jurisdiction at this time could seriously hamper the chances for a satisfactory settlement of all aspects of the fisheries question at the Law of the Sea Conference and could create serious foreign policy problems for the United States.

The United States has consistently opposed unilateral claims by other countries. Moreover, because we view a proliferation of unilateral claims at this time as being seriously detrimental to a successful Law of the Sea Conference, we have put extra effort into urging other nations to hold back on unilateral claims. Indeed, we have even indicated to nations with interim problems that we will be

glad to help them resolve the problems on a bilateral or multilateral basis. Canada and Mexico, who see the danger in unilateral action at this time, have held back from making claims, even though they share our fisheries concerns. For the United States to extend our fisheries jurisdiction unilaterally at this time would seriously impair our credibility internationally and our ability to negotiate in the Law of the Sea Conference a treaty which meets our objectives.

Passage of S.1988, in view of US support for United Nations resolutions calling for a timely and successful conference, would undoubtedly result in a charge of failure to negotiate in good faith. Certainly, we would be charged with bad faith by those states whom we have tried to hold back from making similar unilateral claims based on interim problems. Our cooperation with like-minded states in the negotiations, and thus our chance of successfully meeting all of our law of the sea objectives, would be harmed, perhaps irreversibly.

Furthermore, serious enforcement problems would be created by passage of this bill. There is no reason to believe that distant water fishing nations fishing off our coasts would recognize our unilateral claims. The potential for international conflict, particularly with nations such as Japan and the Soviet Union, staggers the imagination. The confusion and uncertainty created off our coast could make implementation of rational, effective conservation

measures nearly impossible, thereby undercutting the very purpose of extending coastal state jurisdiction. In short, passage of this bill could create the conflicts and foreign policy problems in the fisheries area which both the Executive Branch and the Congress are working to avoid.

Mr. Chairman, as I pointed out in my January 18 letter, unilateral extension of our fisheries jurisdiction would prejudice both the short-term and long-term interests of our distant water fishermen. Subsequent to our unilateral claim, the United States would be compelled, in effect, to recognize extended fisheries zones of other coastal states, at least to the extent of our own unilateral claim. This would have a direct and immediate effect on our distant water fishing industries, such as tuna and shrimp, with concomitant detrimental implications for the coverage of the Fishermen's Protective Act of 1967. It is evident to us that the interests of our distant water will not only be immediately prejudiced but that the chances of achieving any satisfactory resolution of our distant water fisheries problems in the Law of the Sea Conference will have been practically eliminated.

Similarly, the long-term interests of all of our fishermen may actually be prejudiced. A unilateral extension of our contiguous fisheries zone to 200 miles as outlined in this bill would undercut our position on coastal fisheries,

namely, that the most effective management can be achieved by exercising control over the stocks as far offshore as they range, even if in certain areas that includes jurisdiction beyond 200 miles. It is also our opinion and the opinion of other states interested in coastal fisheries that unilateral action will actually make it more difficult to extend coastal state fisheries jurisdiction at the Conference itself. It may be difficult, in fact, to negotiate any fisheries solution at all. In this case, the international conflict which would be the result would hardly be in the interest of any of our fishermen.

Implementation of S.1988 would also have significantly broader effects than on our fisheries interests alone. Unilateral action of the sort contemplated by this bill is, in our opinion, contrary to established fundamental principles of international law. It is the view of the United States that under existing international law no state has the right, unilaterally, to extend its fisheries jurisdiction more than twelve miles from its coast. We do not recognize foreign claims to greater distances, and we have constantly protested such claims made by other states.

Unilateral action under S.1988 might also be considered a violation of both the 1958 Convention on Fisheries and Conservation of Living Resources of the High Seas (which contains provisions for dispute settlement to which the United States would be subject) and the 1958 Convention on the High Seas. The principle that international law is to be observed applies regardless of whether its rules happen to be inconvenient at the moment. In brief, the United States has consistently maintained a policy that international oceans law should be observed. To vacate that policy could have ramifications far beyond the fisheries question, or even our oceans interests. As such, it is particularly important that the United States set an example of full compliance with our international legal obligations.

A violation of international law on our part would no doubt encourage similar claims by other states. However, the nature of such foreign claims would not necessarily be influenced by the apparent reasonableness of our own alleged rights other than fisheries jurisidction, such as rights affecting navigation and overflight, straits, seabed and continental shelf resources, and scientific research. The 1958 Convention on the High Seas provides specifically for four high seas freedoms: (1) freedom of navigation; (2) freedom of fishing; (3) freedom to lay submarine cables and pipelines; and (4) freedom to fly over the high seas. In this situation, we might find it difficult to argue that we could unilaterally restrict one of these freedoms, while another state could not unilaterally choose to restrict another. Our freedom of navigation and our ability to navigate through international straits -- which are vital for our commercial and security interests -- might thereby through gradual erosion be seriously prejudiced. Our freedom to fly over parts of the high seas could be curtailed and our freedom of scientific research could also be greatly impaired.

It is not difficult to see that the interest of many nations in reasonable compromise in the law of the sea forum would be lessened under circumstances such as these. This could lead some states to seek to delay or impede the work of the Conference and could lead to the possibility of no agreement at all. A failure of the Conference to negotiate

an acceptable multilateral solution which meets our objectives could, of course, prejudice all of our international oceans objectives.

Mr. Chairman, in view of the serious prejudical impact this bill could have on the Law of the Sea Conference as a whole, it cannot be denied an interim measure. All too easily, it could destroy the Conference. Accordingly, the bill's effect on fishing and other problems might well be permanent.

Despite our belief that passage of this bill would be a serious mistake, we are not contending that nothing should be done. As I indicated previously, we are fully cognizant of the problems of our coastal fishermen and of the need to solve them. We have testified that if major impediments such as this bill do not undermine the success of the Conference, we believe a satisfactory multilateral resolution of these problems will be reached. However, recognizing that the Conference will take time to complete its work and that there will be additional delays pending ratification, we understand that there is indeed a need for interim measures to enhance the protection of our coastal stocks. In light of this problem, we have taken steps which we believe will help our coastal fishermen until a new international legal system for fisheries management is established. In addition, we are planning implementation of further positive stpes. However, before discussing new initiatives, let me first touch briefly on some of the measures we have already taken.

First, we have proposed that the fisheries regime agreed to by the Law of the Sea Conference come into effect on a provisional basis pending the actual entry into force of the treaty. Second, we have strengthened both bilateral and mutlilateral agreements with nations whose nationals conduct fishing operations off our coast. These and other measures will be further elaborated upon by Mr. Pollock in his testimony.

Mr. Chairman, we do not intend to stop with the measures already taken. As I indicated to you when I met with you a few weeks ago, we have set up a working group to consider new initiatives. This working group has proposed several initiatives and will continue to attempt to find new ones.

[discussion of possible new initiatives] SEE INSERT

Mr. Chairman, we feel that interim steps such as these have provided and will continue to provide increased protection for our coastal stocks. While a bill such as S.1988 could also provide added protection during this period, we believe, as I have testified, that the legislation could have serious harmful consequences for the law of the sea negotiations and for the long-term fishing interests of the United States. In our opinion, the harm done to our fishing and other national interests in the achievement of a successful international agreement by this type of unilateral action would far outweigh any short-term, interim benefits from this legislation.

INSERT -1

Mr. Chairman, we do not intend to stop with the measures already taken. As I indicated to you when I met with you a few weeks ago, we have set up a working group to consider new initiatives. This working group has proposed several initiatives and will continue to attempt to find new ones. Basically, the initiatives fall into two categories -- negotiations and enforcement actions.

In the area of negotiations, we are in the process of proposing new talks with the states fishing off our coast -- particularly those fishing off the northwest United States -- in order to seek greater protection for the fish stocks than we already have under existing bilateral and multilateral arrangements. Among the issues which we plan to explore with the representatives of those states are the questions of a substantial reduction in their fishing efforts, a possible moratorium based either on specific areas or species, a shift in the period during which fishing for particular species is conducted, and a change in the type of fishing gear employed by them. Although we cannot state with certainty that we will be completely successful in our efforts, we are encouraged by a recent change in attitude on the part of one of those states. In this connection, I am pleased to announce that the Soviet Union has responded favorably to our request to meet and discuss measures to restrict its trawl fleet in the Eastern Bering Sea in an effort to

INSERT-2

protect halibut stocks.

Similarly, in the area of enforcement we have during the past days taken steps to ensure that greater protection is provided to our fishermen. In connection with the declaration of lobster as a creature of the continental shelf in January, 1974, we have reviewed and strengthened our enforcement policies, particularly with respect to the incidental catch problem. These strengthened enforcement procedures will, of course, apply to all creatures of our continental shelf on both the east and west coasts. In this regard / we have this week informed foreign governments that our new procedures cover the observed incidental taking and retaining of continental shelf resources. We believe that such measures will not only increase the protection for our continental shelf creatures, particularly from incidental taking, but that they will also affect the incidental taking of other species, such as halibut, which is often taken together with crabs while foreign fishermen are trawling for pollock. We will of course continue to monitor the effectiveness of this procedure, and we expect satisfactory results in providing effective enforcement.

Furthermore, to ensure that our regulations are properly enforced, we are also requesting that additional funds be provided to the Coast Guard, and that the legislation authorizing the Coast Guard to board foreign

INSERT - 3

vessels in a broader area of the Atlantic under the International Convention on the Northwest Atlantic Fisheries be implemented. We are also considering whether we can deputize state officials under some circumstances to assist the Coast Guard in enforcement. With these steps, our fisheries agreements and regulations will provide a greater measure of relief to the fishing industry.

Statement by
Howard W. Pollock
Deputy Administrator, National Oceanic and Atmospheric Administration
Department of Commerce

before the

Senate Committee on Commerce

May 3, 1974

Re: S. 1988

Mr. Chairman, thank you for the opportunity to testify on the 200-mile zone fisheries legislation this morning. To quote a well known friend of mine, "I want to make one thing perfectly clear." We of NOAA and the National Marine Fisheries Service in the Department of Commerce want just as much as you do a substantially expanded fishing area under United States control and improved protection for the fisheries off our coasts. Such protection is essential to ensure the survival of valuable fisheries resources, to provide jobs for fishermen and seafood processors, and to provide those incidential benefits for coastal communities, that result from a healthy commercial fishing industry.

It seems to me that your objectives are quite the same as ours. We want to protect our coastal fishing stocks, and we want to provide an opportunity for our coastal fisherman to catch more fish. The issue really is how we can best achieve these objectives in the shortest

possible time, without seriously affecting our other national and international objectives. We should not make a precipitous unilateral move to enhance the position of one segment of our fishing industry which could damage other segments and seriously jeopardize our security, navigation and other resource objectives through an overall intergrated multilateral international solution. Although we may not be moving with sufficient speed to satisfy everyone, we have embarked upon a course in the LOS arena which has the greatest chance for mutual benefits for each and everyone of our American fisheries. And, it must be remembered that, although we have been in preparation for several years, we are only now beginning the LOS conference. We simply must not give away all our bargaining chips before the negotiations have begun. Of course we want to help our coastal fisherman, but we want to protect our tuna and salmon fisherman too.

You have heard the testimony of John Norton Moore, Chairman, NSC Interagency Task Force on the Law of the Sea and the Deputy Special Representative of the President for the Law of the Sea Conference. Mr. Moore presented to you the major reasons for opposition to passage of this bill. While I wish to submit my concurrence with Mr. Moore's testimony, I do not wish to repeat his statement, but

instead want to present some points which are of particular relevance to the interest of NOAA and the National Marine Fisheries Service, which is the fisheries agency of the U. S. government.

We feel strongly that in the interim before any international agreement, measures must be taken to relieve the pressing problems of our domestic fishermen. I would like to take a few moments to discuss some of our activities in this area, as well as some further possibilities for action.

The most notable success, and an historic breakthrough, was made in this respect at the October meeting of ICNAF, the International Commission for the Northwest Atlantic Fisheries. This agreement, involving a three year annual reduction of quotas, is designed to halt further depletion of valuable fish stocks. It would enable the establishment of a level of fishing by 1976 that would be consistent with rebuilding the resources to produce maximum sustainable yield.

The two-tiered quota system sets national catch limits by species as well as national overall quotas for Subarea 5 and Statistical Area 6. The overall quota for each country is smaller than the sum of its individual species quotas, in recognition of the fact that the international harvesting of one species can also include the incidental taking of other

species, and cause unpredictable effects on the overall system, which must be taken into account in management programs.

The reduction in catch necessary to implement this restoration plan will be borne entirely by foreign distant water fleets. In fact, modest catch increases are allowed for our fishermen and those of Canada. However, the quotas for 1974 will force a 30% reduction on Soviet and E. German fishing and a 25% reduction for Poland. Further reductions are already locked in for 1975 and 1976.

An additional step was taken to aid the U.S. groundfish fishery. The Commission agreed to prohibit large vessels from taking fish, other than crustacea, with bottom-tending gear in shallow waters off New England during the latter half of the year, in order to minimize incidental catches of yellowtail flounder and other species of importance to U.S. bottom-trawl fisheries.

This policy of conserving stocks and restricting foreign fishing for valuable species of special concern to U.S. fisherman is the essence of our three bilaterals in the Western mid-Atlantic.

The agreements with the USSR and Poland prohibit fishing in certain areas and at certain times to provide protection for bluefish, lobster, flounders, hake, herring and menhaden, among others. Increased protection was afforded these species by the recent mid-1973 agreements. At that time new assurances were added, indicating that Soviet and Polish vessels were not intentionally to catch lobster north of Cape Hatteras, and that incidential catches were to be returned to the sea in a viable condition. Since that time Congress has declared lobster to be a creature of the shelf and all foreign governments fishing off our east coast have been advised that any fishing for lobster is prohibited.

In December of 1973, we concluded a bilateral agreement with Rumania regarding fisheries in this same area. The new agreement includes arrangements similar to, but more restrictive than those in the bilaterals with the USSR and Poland. In particular, the Rumanian agreement moves further in the direction of closing coastal fishing grounds to bottom fishing by distant-water vessels for extended periods of time and in some cases to all fishing.

The latest advance in ICNAF negotiations and the existing Atlantic coast bilaterals, should provide significant protection for Atlantic resources in the interim before an LOS agreement.

Off our Western coast, existing agreements offer substantial but not totally comprehensive protection for species of domestic importance. It may come as some surprise for me to say that almost all North American salmon are protected by the abstention principle of the International Convention for the High Seas Fisheries of the North Pacific Ocean which prohibits Japanese fishing for stocks of any of the salmon species of the 175° W Longitude. Under this protection, about 97% of the total catch of North American salmon is taken by the U. S. and Canada, and only about 3% is taken by the Japanese high seas fleet west of this line. However, the North American salmon intercepted by Japanese are all Bristol Bay sockeye or red salmon. Consequently, the impact of Japanese high seas salmon fishing falls almost entirely on one locality-the Bristol Bay salmon fishery. In recent years the impact has been acute and is expected to be especially critical this year due to poor salmon runs returning to Bristol Bay. Actually, the poor runs are not due primarily to the Japanese high seas fishery, but are mainly attributed to adverse environmental conditions, particularly involving severe winters when the spawning beds and the salmon eggs and larvae have been destroyed by ice. The Government of Japan has been made aware by the United States of the severity of this problem and has been urged to cooperate

by taking effective actions regarding the operation of Japan's high seas salmon fishery in 1974. Actual resolution of the problem has not been possible to date. This is in part due to Japanese - Soviet negotiations that are now in progress concerning fishing provisions for Asian salmon. However, further representation to Japan with a view toward ameliorating this problem is anticipated. Since Alaskan salmon migrate in some areas beyond the 175° W abstention line, it is imperative that we retain this measure of protection. A 200-mile limit would provide only limited protection to these salmon along the Aleutian Chain but it would not be in any way helpful in the Bering Sea or the North Pacific outside 200 miles. Enactment of the 200 mile limit could worsen the problem involving Bristol Bay salmon by causing Japan to abrogate the treaty and begin fishing in waters east of the line but outside 200 miles. In both the North Pacific and the Bering Sea this would have a disasterous impact on salmon.

The king and tanner crab bilaterals with the Soviets and Japanese in the eastern Bering Sea offer another example of agreements which provide substantial but not comprehensive protection to our coastal resources. Agreements with both countries include provisions for country quotas by area, minimum size limits, restricted fishing gear and other measures to protect the stocks.

Recognition of the fact that Pacific halibut stocks are in danger from heavy incidental catches has precipitated new efforts to conserve these important stocks. In late December 1973, the Japanese agreed at the request of the U.S. and Canada to prohibit its mothership and trawlers from fishing for pollock in certain areas of the eastern Bering Sea at times when incidental catches of halibut are high. A separate U.S. Soviet agreement completed in 1973 also places restrictions on Soviet use of mobile fishing gear in the eastern Bering Sea and the Northwest Pacific in specified areas when U.S. halibut fishermen are operating. Under a U.S. Republic of Korea bilateral agreement which entered into force in December 1972, Korea agreed to refrain from fishing for halibut and salmon throughout the North Pacific Ocean and the Bering Sea east of 175° W. longitude.

In addition, further possibilities in the form of fishing gear restrictions to protect halibut are being investigated. For example, it may be that restricitng foreign operations to midwater trawling will substantially reduce the incidental halibut catch, but will not be so damaging to foreign fishing as to be unacceptable.

We are currently undertaking various development programs and financial plans which provide support for our domestice fishermen until effective management schèmes and/or extended jurisdiction can be established to improve and stabilize their situation. Besides the financial assistance provided by the Ship Financing Act (which guarantees loans made by private instutitions) and the Capital Construction Fund (a tax shelter for funds earmarked for vessel construction), there are in existence other financial assistance programs as well as several major new research and development projects concerned with stock assessment, processing, and marketing of presently underutilized species.

Now, Mr. Chairman, I would like to bring to your attention some gains which have been made in the realm of enforcement. New ICNAF agreements facilitate the documentation of evidence of violations so that the evidence can be preserved for submission to the flag state.

It might interest you to know that last year the U.S. and the USSR agreed to facilitate the settlement of gear and fishing conflicts through the establishment of Fisheries Claims Boards. The speedy resolution of such

claims is important in providing compensation for lost or damaged gear, a point of long-standing contention between domestic and foreign fishermen. Recently the Board began its consideration of pending claims.

While discussing the problem of enforcement, I feel one important issue should be raised. It would seem likely that enforcement of a unilateral extension of fishery jurisdiction would require more extensive powers and more costly apparatus than would enforcement of an international arrangement such as might result from an LOS agreement. Other countries are understandably uneasy when one state unilaterally extends its powers to include coercive action (i.e., the right to try and punish offenders). It should also be noted that distant-water fishing nations will be more inclined to accept broad coastal state regulatory authority if coastal state enforcement powers are given by reason of international agreement and are subject to some international safeguards. I should also point out that the increased enforcement responsibilities, whether resulting from the passage of this bill or from the LOS negotiations, cannot be quickly met. The budget and appropriation processes are slow indeed and, even if funds are made available, it will take considerable time to provide the necessary ships, logistical support, and manpower.

One additional issue is of great concern to us. I should like to point out that, to be at all effective, any extension of U.S. fisheries jurisdiction must be accompanied by an adequate management program. A central problem affecting all segments of our U.S. fisheries, at the present time, is the lack of adequate authorities and systems for managing our fishery resources. National systems for management and protection of our fisheries are an urgent necessity, and we presently have no authority for instituting such systems under existing law. As you know, Mr. Chairman, there is another piece of legislation before this Committee which provides for such authority. This authority is necessary to fulfill the management and conservation responsibilities set forth in the Fish and Wildlife Act of 1956 and is fundamental to establish uniform State/Federal cooperative management and regulatory programs. If we are ever to break out of the present confusion due to conflicts between regulations of different jursidication into an approach which is biologically, economically, and socially sound we will need a broad statutory base.

As you know, Mr. Chairman, the States presently regulate the harvest of fish and shellfish within the territorial sea out to 3 miles. The States have the authority to regulate the activities of their own citizens seaward

of the territorial sea, when there is no conflict with Federal law. When fishermen from different States fish beyond 3 miles for the same resource, and when the regulations of their respective States are different, each fisherman must fish under their own State's regulations. While the Federal Government has general jurisdiction over its citizens anywhere on the oceans, it lacks adequate authority to establish regulations for domestic management of fisheries in the contiguous zone and beyond, except with respect to marine mammals, endangered species, and in situations where legislation specifically implements international treaties. With appropriate authority we would be in a position to work with the States to develop uniform regulations under which all fishermen will operate. This should lead to the development of a rational and uniform management program extending over the entire geographical range of species of fish.

Mr. Chairman, the issue of jurisdiction in the oceans off our coast is confusion at best. A State has authority over its own citizens in the three mile territorial sea and the Federal government has not preempted that authority. Furthermore, absent legislation implementing a treaty, the Federal government has no management authority over U.S. citizens in the nine mile contiguous zone beyond the territorial sea or over the U.S. or foreign fishermen beyond the contiguous zone. The Federal Government

lacks the authority necessary to discharge its domestic obligations under certain of our international fisheries agreement, such as those between the U.S. and USSR and the U.S. and Poland concerning fishing area closures in the Mid-Atlantic. The statutory authority for implementing the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas is also lacking.

Finally, although it does not couch directly on the 200-mile legislation before us, nor the need for federal management authority beyond 3 miles, another important concept worthy of brief mention is that fisheries regulations should be based not only on the need to maintain the biological viability of the resources, but that the social and economic aspects of any fishery should also be considered. We believe that authority to limit entry of fishermen in the harvesting of fish is necessary in order to prevent overexploitation and overcapitalization of many of our fisheries.

In summary, Mr. Chairman, it is the considered opinion of the National Marine Fisheries Service, the National Oceanic and Atmospheric Administration, the Department of Commerce and indeed, the Executive branch of the Federal Government, that passage of the

200-mile legislation would be harmful to the negotiating posture of the U.S. at the LOS Conference in Caracas this summer, and this would be detrimental to the security and navigation objectives, as well as energy and other living and non-living resource and related objectives we hope to achieve. Further, as we have indicated, it seems to us most unwise to try to gain immediate benefits for the coastal fisheries, to the detriment of the other major segments of the U.S. fishing industry, that is the tuna, salmon, shrimp, and longusta fisheries. In our view it is imperative that we maintain a unified fisheries position in the LOS forum in order to best serve the interests of the entire U.S. fishing community.